



Comptroller General
of the United States
Washington, D.C. 20548

Decision

Matter of: Lawrence Associates, Inc.
File: B-260103
Date: January 26, 1995

DECISION

Lawrence Associates, Inc. protests the award of a contract No. F33615-94-D-5801 to Technical Management Concepts (TMC) by the Department of the Air Force. Mil-Base challenges the determination that TMC is a responsible contractor.

We dismiss the protest.

A determination that a bidder or offeror is capable of performing a contract is based, in large measure, on subjective judgments which generally are not susceptible to reasoned review. Whether the awardee had the ability and intention of complying with the requirements is simply a matter for the contracting officer, in the exercise of her discretionary business judgment, to consider in making the responsibility determination. An agency's affirmative determination of a contractor's responsibility will not be reviewed by our Office absent a showing of possible fraud or bad faith on the part of procurement officials, or that definitive responsibility criteria in the solicitation may have been misapplied. 4 C.F.R. § 21.3(m)(5); King-Fisher Co., B-236687.2, Feb. 12, 1990, 90-1 CPD ¶ 177. While Lawrence alleges that a more thorough investigation or pre-award survey would have shown that TMC was not responsible, that, even if true, does not establish that the agency may have acted fraudulently or in bad faith. It is simply up to the agency, which must bear the burden of deficient contract performance, to decide what it must do in order to determine if a bidder or offeror is capable of performing the contract. The Air Force's approach--whether or not it included a pre-award survey--therefore is a permissible one and provides no basis for our review of this matter.

Ronald Berger
Ronald Berger
Associate General Counsel